

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

IN THE MATTER OF THE OPERATION)
OF THE JUDICIAL BRANCH AND) ADMINISTRATIVE
ORDER
SUPERIOR COURT DIVISIONS THEREOF) NO. 95-028
_____)

On December 14, 1994, the Board of Supervisors of Maricopa County imposed a county-wide hiring freeze. The language of the Fiscal Stabilization Guidelines appears to exempt positions that are "fully reimbursable by grant moneys" [sic.]. Maricopa County has not denied that such is the case.

On March 5, 1995, PCN 32874, a position fully funded or reimbursable by Title IV-D federal grant funds, non-general funds, was vacant. On or before March 6, 1995, Patricia Anderson was hired to fill PCN 32874 half-time (.5 FTE). She began working on March 6, 1995, and has worked half-time continually since that date.

Payroll checks were issued on March 16, 1995, for the payroll period of February 26 through March 11, 1995. This Court understands that all payroll information for Patricia Anderson, PCN 32874, was entered into the payroll system by the Human Resources Department, Maricopa County on or about March 17, 1995, and that on that date, a payroll check was issued for Patricia Anderson and delivered to the Office of Management and Budget which now holds that check.

Maricopa County has failed and refused to release the aforesaid paycheck to Patricia Anderson even though the Judicial Branch has furnished information that PCN 32874 was vacant, that the Presiding Judge made the determination that the filling of the position was reasonable and necessary to administer justice, and that PCN 32874 is a grant-funded, non-general funds position.

The reasons given by the Budget Director, Office of Management and Budget, Maricopa County, for failing and refusing to acknowledge and approve PCN 32874 as a grant-funded position, and therefore exempt from the hiring freeze, are extraneous to the issue of whether PCN 32874 is grant-funded and therefore exempt from the hiring freeze.

ADMINISTRATIVE ORDER NO. 95-028
March 20, 1995
Page Two (2)

The Guidelines for the Hiring Freeze state:

NOTE: There will be NO EXEMPTION PROCESS. However, if a position becomes vacant which affects the health or safety of Maricopa County citizens, or is deemed necessary, the Office of Management and Budget will make the final determination on whether a recruitment is appropriate. (Emphasis in the original.)

It therefore appears that the Board of Supervisors has delegated to the Budget Director total discretion to approve or not approve an exemption from the hiring freeze. It further appears that in exercising that discretion, the Budget Director has failed to apply or misapplied the opening paragraph of the Fiscal Stabilization Freeze Guidelines. It also therefore appears that the Budget Director is withholding releasing the aforesaid payroll check to Patricia Anderson without just cause.

The next scheduled meeting of the Board of Supervisors at which a waiver from the hiring freeze for PCN 32874, and by which the aforesaid payroll check owing to Patricia Anderson, might be released is April 3, 1995. By that date, Patricia Anderson will have been working twenty (20) days without pay, and another payroll period will have passed with a payroll check being due on March 30, 1995. In light of all of the foregoing, such a delay is not a reasonable procedure as contemplated by the Dann case.

Accordingly, it is

ORDERED directing the Board of Supervisors and the necessary personnel of Maricopa County, by not later than 5:00 p.m. on Wednesday, March 22, 1995, to cause the release to Patricia Anderson a payroll check to Patricia Anderson for the time she has worked during the pay period of February 26 through March 11, 1995, and to keep Patricia Anderson on the payroll records for the Judicial Branch, Superior Court as a .5 FTE in PCN 32874. The funds for her employment paycheck are to be paid from Title IV-D grant fund monies for the Judicial Branch.

NOTICE: UPON REQUEST BY THE BOARD OF SUPERVISORS, AN ADMINISTRATIVE HEARING WILL BE SET DURING THE WEEK OF MARCH 27, 1995, IF POSSIBLE, AT WHICH TIME THE MEMBERS OF THE BOARD OF SUPERVISORS OR THEIR DESIGNEES ARE INVITED TO ATTEND, IF

THEY WISH, TO PRESENT ANY INFORMATION THEY MAY HAVE WHICH CLEARLY SHOWS THAT THE FOREGOING ORDER IS NOT REASONABLE AND NECESSARY FOR THE ADMINISTRATION OF JUSTICE AND THAT THE POSITION IS GENERAL FUNDED AND THEREFORE SUBJECT TO THE HIRING FREEZE. UPON SUCH SHOWING, THIS ORDER WILL BE RESCINDED, OTHERWISE THIS ORDER WILL REMAIN IN FULL FORCE AND EFFECT SUBJECT ONLY TO THE RIGHT OF THE BOARD OF SUPERVISORS TO

ADMINISTRATIVE ORDER NO. 95-028
March 20, 1995
Page Three (3)

CHALLENGE IT IN A SPECIAL ACTION IN ACCORDANCE WITH MARICOPA COUNTY v. DANN, 157 ARIZ. 396 (1988).

ORDERED directing the Clerk of the Superior Court to create a special file in this matter numbered AO 95-028 and to file in and retain in or with the file all materials pertaining to proceedings regarding this Administrative Order 95-028.

ORDERED directing the Sheriff of Maricopa County to forthwith serve a copy of this Administrative Order 95-028 on Fran McCarroll, Clerk of the Board of Supervisors; Tom Rawles, Chairman of the Board of Supervisors; Don Stapley, Supervisor, District 2; Betsey Bayless, Supervisor, District 3; Ed King, Supervisor, District 4; Mary Rose Wilcox, Supervisor, District 5; David R. Smith, County Administrative Officer; Deborah Larson, Financial Officer; Paul Ahler, Director of Human Resources; Sandi Wilson, Budget Director; and Richard Romley, Maricopa County Attorney.

DONE on March 20, 1995.

C. Kimball Rose, Presiding Judge

Original filed with the Clerk of the Court

BCC: Charles Roush
Jerry Angle
Court Management Team
Judicial Executive Committee
Budget Advisory Committee
Comm. Stephen Ventre

